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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,012	01/22/2004	Maurice Martin	IRI.001CI	6248
20995 7590 05/17/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER KENDALL, CHUCK O	
			ART UNIT 2192	PAPER NUMBER
			NOTIFICATION DATE 05/17/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary	Application No. 10/763,012	Applicant(s) MARTIN ET AL.	
	Examiner Chuck O. Kendall	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/06,08/06,09/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to application filed 01/22/04.
2. Claims 1 – 52 have been examined.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 40 – 52 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 40 – 52, draws claims to a computer program embodied in a tangible medium. Simply stating that it's a tangible medium doesn't indicate that it would produce a useful, concrete, tangible result and hence, the descriptive material are non statutory since it is descriptive material per se (software per se) and would have to be embodied in a computer readable medium in order for it to achieve its functionality. As disclosed in the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility:

" ...Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d 1760 (claim to a data structure per se held nonstatutory). Hence claims 40 – 52 are non statutory.

Claim Rejections - 35 USC § 102

Art Unit: 2192

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1 – 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Tenney et al. US 6,944,584 B1.

Regarding claims 1, 27 and 40, Tenney anticipates a method/system/computer program of cooperatively programming for a simulation of a computer application to be developed, the method comprising:

communicating with a plurality of user computers, where the user computers display an executable simulation model (FIG. 1, 121, 123, and 125 also see all associated text for displaying simulation model see 2:35 – 40);

permitting the user computers to simultaneously modify the executable simulation model thereby revising the simulation (2:35 – 45);

receiving a modification to the executable simulation model from a first user computer selected from the user computers (2:35 – 45); and

automatically providing an update to the plurality of user computers such that the plurality of user computers display the revised executable simulation model (7:35 – 50).

Regarding claims 2, 15, 28 and 41, the method as defined in claim 1, wherein the modification to the executable simulation model further comprises at least one of adding a primitive, deleting a primitive, editing a primitive, and modifying a relationship between or among primitives (7:45 – 50, see view, edit and develop control programs).

Regarding claims 3,16, 29 and 42,the method as defined in claim 1, further comprising automatically providing the update in near real time (7:47 – 50, see live updates).

Regarding claims 4,17, 30 and 43, the method as defined in claim 1, wherein automatically providing an update occurs without having a user of the first user computer activate an instruction to update the executable simulation mode (7:40 – 45, see dynamically updated).

Regarding claims 5,18, 31 and 44, the method as defined in claim 1, wherein automatically providing an update further comprises automatically updating a second user computer without receiving a request from the second user computer to update the executable simulation model (7:40 – 45, see dynamically updated).

Regarding claim 6, 19, 32 and 45, the method as defined in claim 1, further comprising dynamically sharing requirements among the user computers (6:22 – 40).

Art Unit: 2192

Regarding claim 7, 20, 33 and 46, the method as defined in claim 1, further comprising dynamically sharing requirements among the user computers, wherein the dynamically-shared requirements are stored in a single data store (6:22 – 40).

Regarding claims 8, 21, 34 and 47, the method as defined in claim 1, wherein the executable model includes requirements (10:50 – 55).

Regarding claims 9, 22, 35 and 48, the method as defined in claim 1, further comprising dynamically sharing primitives among the user computers (6:22 – 40).

Regarding claims 10, 23, 36 and 49, the method as defined in claim 1, further comprising dynamically sharing primitives among the user computers, wherein the dynamically-shared primitives are stored in a single data store (FIG. 1, 119 and all associated text).

Regarding claims 11, 24, 37 and 50, the method as defined in claim 1, further comprising: communicating with a second user computer, where the second user computer is executing the model of the simulation; and automatically providing the update to the second user computer such that the second user computer automatically executes the revised executable model of the simulation (8:58 – 65).

Regarding claims 12, 25, 38 and 51, the method as defined in claim 11, wherein automatically providing the update to the second user computer occurs in near real time (7:45 – 50, see live updates).

Regarding claims 13, 26, 39 and 52, the method as defined in claim 1, wherein the computer application is a Web-based application (FIG. 1, 121 see web browser).

Regarding claim 14, Tenny anticipates a computer system that is configured to permit users to cooperatively program a simulation of a computer application to be developed, the computer system comprising:

- a first component configured to communicate with a plurality of user computers, where the user computers display an executable simulation model (FIG. 1, 119, 100 and all associated text);

- a second component configured to permit the user computers to simultaneously modify the executable simulation model thereby revising the simulation, where the second component is further configured to receive a modification to the executable simulation model from a first user computer selected from the user computers (2: 40 – 50, see concurrent engineering); and

- a third component configured to automatically provide an update to the plurality of user computers such that the plurality of user computers display the revised executable simulation model (7:45 – 50).

Conclusion

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.

Chuck Kendall
5/12/07